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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Terry Lyn McCutcheon,
10 Petitioner,
11 v.
12 Arizona, State of, et al.,
13 Respondents.
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No. CV-15-00512-PHX-PGR (ESW)

ORDER

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16 Petitioner Terry Lyn McCutcheon, who is confined in the MacDougall
17 Correctional Institution in Connecticut, filed a pro se Amended Petition for Writ of
18 Habeas Corpus pursuant to 28 U.S.C. § 2254. (Doc. 6). The Court ordered Respondents
19 to answer. (Doc. 7). Respondents filed their Limited Answer to Petition for Writ of
20 Habeas Corpus on November 5, 2015. (Doc. 14). Pending before the Court are
21 Petitioner's Motion for Appointment of Counsel (Doc. 17) and "Motion for Extension of
22 Time to File Reply to Respondent's Response to Order to Show Cause" (Doc. 18). The
23 Court will deny Petitioner's Motion for Appointment of Counsel and grant Petitioner an
24 extension of time to reply to Respondents' Limited Answer.

25 **DISCUSSION**

26 **1. Motion to Appoint Counsel (Doc. 17)**

27 Petitioner requests that the Court appoint him counsel because (i) the case involves
28 complex issues, (ii) Petitioner has no knowledge of the law, (iii) Petitioner is incarcerated

1 in Connecticut with no access to Arizona law, and (iv) “[i]t would benefit the Court as
2 well as Petitioner logistically” due to the geographical distance between Petitioner and
3 the Court. (Doc. 17 at 2).

4 “Indigent state prisoners applying for habeas corpus relief are not entitled to
5 appointed counsel unless the circumstances of a particular case indicate that appointed
6 counsel is necessary to prevent due process violations.” *Chaney v. Lewis*, 801 F.2d 1191,
7 1196 (9th Cir. 1986). However, the Court has discretion to appoint counsel when “the
8 interests of justice so require.” 18 U.S.C. § 3006A (a) (2) (B). “In deciding whether to
9 appoint counsel in a habeas proceeding, the district court must evaluate the likelihood of
10 success on the merits as well as the ability of the petitioner to articulate his claims *pro se*
11 in light of the complexity of the legal issues involved.” *Weygandt v. Look*, 718 F.2d 952,
12 954 (9th Cir. 1983) (per curiam) (citations omitted). “Neither of these considerations is
13 dispositive and instead must be viewed together.” *Palmer v. Valdez*, 560 F.3d 965, 970
14 (9th Cir. 2009).

15 Having considered both elements, Petitioner has not shown that the interests of
16 justice require the appointment of counsel in this case. Petitioner has not demonstrated a
17 likelihood of success on the merits, nor has he shown that he is experiencing difficulty in
18 litigating this case because of the complexity of the issues involved. Petitioner’s filings
19 with the Court, as well as the instant motions, indicate that Petitioner remains quite
20 capable of navigating his proceedings and presenting cogent arguments to the Court.
21 Petitioner is in a position no different than many pro se prisoner litigants. Should the
22 Court determine that an evidentiary hearing in this matter is required or counsel is
23 necessary for the effective utilization of discovery procedures, counsel may be appointed.
24 *See* Rules 6(a) and 8(c), 28 U.S.C. foll. § 2254. Accordingly, Petitioner’s Motion to
25 Appoint Counsel will be denied.

